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January 31, 2014

**Via Email**

Honorable Katherine Polk Failla, United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

***Eastman Chemical Co. v. Nestlé Waters Management & Technology***  
**S.D.N.Y., 11-cv-2589 (KPF) (HBP)**

Dear Judge Failla:

On behalf plaintiff Eastman Chemical Company, I write in response to the letter from Nestlé's counsel of January 29, 2014.

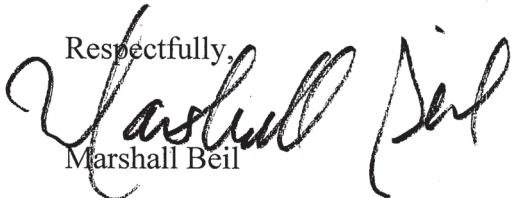
Eastman consents to Nestlé's request to extend the January 31 discovery deadline to February 4, 2014. Because Nestlé has decided not to supplement Mr. Mikulka's expert reports, Eastman will not seek a second deposition of Mr. Mikulka at this time.

Nestlé has never disclosed the bases for its *Daubert* challenge against either of Eastman's experts. They are not obvious to me. Therefore, in the interest of efficiency, Eastman suggests that the Court require pre-motion submissions from the parties on this issue. Your Honor can then determine if there is a legitimate basis for additional briefing. This process can be completed quickly.

With respect to Nestlé's pre-motion letter to Magistrate Judge Pitman, I have written to the Judge pointing out, among other things, that the schedule set by this Court at the December 18th conference without objection protects Nestlé with respect to Mr. Dansky's supplemental report.

Finally, as all of the issues raised in Nestlé's letter have been addressed, I see no reason for an additional conference at this time or any reason to change the briefing schedule for the motions for summary judgment. Eastman will of course defer to the Court on those matters.

Respectfully,



Marshall Beil

cc: Harry H. Rimm, Esq.

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